REMARKS

Claim 1 has been amended by incorporating subject matter from claims 5, 7 and 10 into it.

Claims 5 and 7 have been canceled.

Claims 8 and 10 have been amended to conform to the above claim amendments and cancellations.

Claims 1, 6 and 8-24 are currently pending, although claims 21-24 have been withdrawn from consideration. Upon indication of allowable subject matter, Applicants intend to seek rejoinder of the withdrawn claims as appropriate, particularly claims 21-23 which ultimately depend from claim 1. (See, MPEP 821.04).

The Office Action rejected claims 1, 6-18 and 20 under 35 U.S.C. § 103 as obvious over WO 02/03952 ("Robinson") in view of U.S. patent application publication no. 20010002257/French patent application no. 2,771,632 ("Stoltz"), claims 1 and 5-20 under 35 U.S.C. § 103 as obvious over EP 1,055,406/U.S. patent 6,465,402 ("Lorant") in view of U.S. patent 6,346,255 ("Fontinos"), and claims 1 and 5-20 under 35 U.S.C. § 103 as obvious over U.S. patent 6,197,287 ("Mallo") in view of Lorant. In view of the following comments, Applicants respectfully request reconsideration and withdrawal of these rejections.

The claims as amended are directed to a specific type of composition (oil-in-water emulsion) having (1) at least 1% of a specific elastomeric compound; (2) capryloylglycine and/or undecylenoylglycine; and (3) a hydrophilic polymer. The applied art neither teaches nor suggests such specific oil-in-water emulsions, or any benefits resulting from such a specific combination of compounds within a single oil-in-water emulsion.

As noted in the Background section of the present application, oil-in-water emulsions containing at least 1% elastomeric organopolysiloxane and hydrophilic polymer(s) tend

toward destabilization. (See, page 5 of the present application). Applicants have discovered that adding capryloylglycine and/or undecylenoylglycine to oil-in-water emulsions containing at least 1% of a specific type of elastomeric organopolysiloxane and hydrophilic polymer(s) improves stability of the emulsions. For example, examples 3-6 of the present application, demonstrate that emulsions containing the claimed glycine derivatives are stable, whereas emulsions lacking them are not. Similarly, the Rule 132 declarations submitted July 24, 2007, and November 1, 2006, demonstrate that emulsions containing the claimed glycine derivatives are stable, whereas emulsions containing different amino acid compounds (including glycine itself) are not.

The data in both the examples of the present application and the Rule 132 declarations submitted in this case demonstrate that the claimed glycine derivatives can stabilize oil-in-water emulsions containing at least 1% elastomeric organopolysiloxane and hydrophilic polymer(s), and that such stabilization was surprising an unexpected given the instability of extremely similar compositions. (See, Rule 132 declaration submitted November 1, 2006, at par. 9, and Rule 132 declaration submitted July 24, 2007, at par. 7). Based on this information alone, Applicants respectfully submit that the pending rejections are improper and should be withdrawn.

That is, even assuming that a *prima facie* case of obviousness has been set forth (which, as explained below, is not the case), Applicants have rebutted such a hypothetical case of obviousness with their showing of unexpected and surprising stability of the claimed oil-in-water emulsions, and by their narrowing the claims to be commensurate in scope with their showing of unexpected and surprising results.

This is particularly true for claims 12-14 which are directed to specific hydrophilic polymers.

For at least this reason Applicants respectfully submit that the pending rejections under 35 U.S.C. § 103 should be reconsidered and withdrawn.

Furthermore, no *prima facie* case of obviousness exists. Robinson neither teaches nor suggests the presence of the required glycines. The Office has previously recognized this deficiency.

The Office Action recognized that Lorant, like Robinson, neither teaches nor suggests the claimed glycines (See, Office Action at page 7), meaning that Lorant cannot teach or suggest the claimed invention.

Finally, the Office Action (at page 10) recognized that Mallo does not teach or suggest elastomeric polyorganosiloxanes, meaning that Mallo cannot teach or suggest the specific type of elastomeric compound required by the claims or the specific amount of such a compound required by the claims.

Thus, by themselves, none of the primary references teaches or suggests the claimed invention.

The secondary references, Stoltz and Fontinos, do not compensate for Robinson's, Lorant's and Mallo's deficiencies. No motivation would have existed to combine these references with the primary references with the expectation that a stable, acceptable emulsion would result.

Robinson discloses compositions containing a tacky solvent (polyol) and an active agent which is soluble in the tacky solvent. Given that the claimed glycine compounds contain lipophilic groups which should limit the compounds' solubility in Robinson's hydrophilic tacky solvent (polyol), no motivation would have existed to use such lipophilic glycine compounds in Robinson's compositions. That is, no motivation would have existed to include such lipophilic compounds in a hydrophilic environment, particularly given

Robinson's instruction that the active agent must be soluble in the tacky solvent. For at least this reason no motivation would have existed to combine Robinson and Stoltz to yield the claimed invention.

Moreover, the fact that Robinson states over the course of 20 pages (pages 41-60) that additional active agents can be added to his compositions does not teach or suggest the claimed invention either --- Robinson's disclosure is so broad and general that one skilled in the art would not have been motivated to add the required lipophilic glycine compounds to Robinson's compositions with a reasonable expectation that an acceptable composition would result (particularly given solubility issues), let alone to add the required glycine compounds in an amount sufficient to stabilize an emulsion. For this reason as well no motivation would have existed to combine Robinson and Stoltz to yield the claimed invention.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejection based upon Robinson and Stoltz.

Similarly, the combination of Lorant and Fontinos does not yield the claimed invention. Lorant is silent concerning the claimed glycine compounds. Fontinos relates to a patch or pad. Nothing in either of these references would lead one skilled in the art to add an emulsion stabilizing effective amount of the required glycine compound to Lorant's compositions. That is, given that Fontinos' patches or pads are so structurally different from Lorant's compositions, no teaching, suggestion or motivation would have existed to add an emulsion stabilizing effective amount of the claimed glycine compounds to Lorant's compositions with the expectation that a stable emulsion would result.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejection based upon Lorant and Fontinos.

Finally, Mallo relates to an inverted latex product, not the claimed oil-in-water emulsion, and no motivation would have existed to convert Mallo's desired latex product into the claimed emulsion.

For all of the above reasons, Applicants respectfully request reconsideration and withdrawal of all pending rejections under 35 U.S.C. § 103.

Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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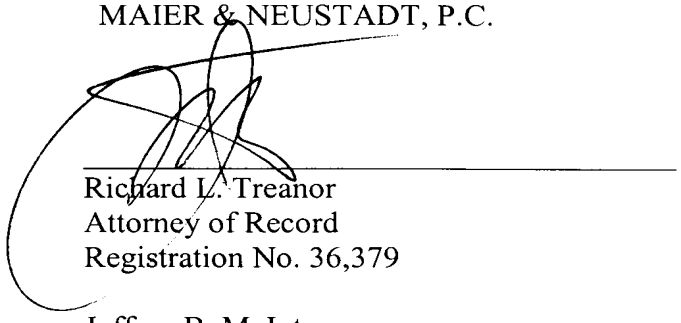

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